

PATENT COOPERATION TREATY

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REC'D 16 MAR 2006
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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P20144WO1	FOR FURTHER ACTION See Form PCT/IPEA/416	
International application No. PCT/SE2004/001952	International filing date (<i>day/month/year</i>) 21-12-2004	Priority date (<i>day/month/year</i>) 22-12-2003
International Patent Classification (IPC) or national classification and IPC See Supplemental Box		
Applicant Telefonaktiebolaget LM Ericsson (publ) et al		

<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>6</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of _____ sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>																								
<p>4. This report contains indications relating to the following items:</p> <table> <tbody> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. I</td> <td>Basis of the report</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </tbody> </table>	<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input type="checkbox"/>	Box No. II	Priority	<input checked="" type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input type="checkbox"/>	Box No. VII	Certain defects in the international application	<input checked="" type="checkbox"/>	Box No. VIII	Certain observations on the international application
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Date of submission of the demand 05-10-2005	Date of completion of this report 06-03-2006
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Form PCT/IPEA/409 (cover sheet) (April 2005)

CORRECTED

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Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of: Cover sheet

INTERNATIONAL PATENT CLASSIFICATION (IPC) :

H01Q 21/00 (2006.01)

H04B 7/04 (2006.01)

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Box No. I Basis of the report

1. With regard to the **language**, this report is based on:

the international application in the language in which it was filed
 a translation of the international application into _____, which is the language of a translation furnished for the purposes of:
 international search (Rules 12.3(a) and 23.1(b))
 publication of the international application (Rule 12.4(a))
 international preliminary examination (Rules 55.2(a) and/or 55.3(a))

2. With regard to the **elements** of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

the international application as originally filed/furnished
 the description:
 pages _____ as originally filed/furnished
 pages* _____ received by this Authority on _____
 pages* _____ received by this Authority on _____
 the claims:
 pages _____ as originally filed/furnished
 pages* _____ as amended (together with any statement) under Article 19
 pages* _____ received by this Authority on _____
 pages* _____ received by this Authority on _____
 the drawings:
 pages _____ as originally filed/furnished
 pages* _____ received by this Authority on _____
 pages* _____ received by this Authority on _____
 a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. The amendments have resulted in the cancellation of:

the description, pages _____
 the claims, Nos. _____
 the drawings, sheets/figs _____
 the sequence listing (*specify*): _____
 any table(s) related to the sequence listing (*specify*): _____

4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

the description, pages _____
 the claims, Nos. _____
 the drawings, sheets/figs _____
 the sequence listing (*specify*): _____
 any table(s) related to the sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

the entire international application

claims Nos. 78 - 79

because:

the said international application, or the said claims Nos. _____ relate to the following subject matter which does not require an international preliminary examination (*specify*):

the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 78 - 79 are so unclear that no meaningful opinion could be formed (*specify*):

Claim 78 is characterised by an unspecified number of devices, namely "two or more devices as specified in any of claims 34-74". Claim 79 is dependent on claim 78.

the claims, or said claims Nos. _____ are so inadequately supported by the description that no meaningful opinion could be formed (*specify*):

no international search report has been established for said claims Nos. _____

a meaningful opinion could not be formed without the sequence listing; the applicant did not, within the prescribed time limit:

furnish a sequence listing on paper complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Preliminary Examining Authority in a form and manner acceptable to it.

furnish a sequence listing in electronic form complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Preliminary Examining Authority in a form and manner acceptable to it.

pay the required late furnishing fee for the furnishing of a sequence listing in response to an invitation under Rules 13ter.1(a) or (b) and 13ter.2.

a meaningful opinion could not be formed without the tables related to the sequence listings; the applicant did not, within the prescribed time limit, furnish such tables in electronic form complying with the technical requirements provided for in Annex C-bis of the Administrative Instructions, and such tables were not available to the International Preliminary Examining Authority in a form and manner acceptable to it.

the tables related to the nucleotide and/or amino acid sequence listing, if in electronic form only, do not comply with the technical requirements provided for in the Annex C-bis of the Administrative Instructions.

See Supplemental Box for further details.

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Box No. V **Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Claims	<u>1 - 77</u>	YES
	Claims	_____	NO
Inventive step (IS)	Claims	<u>1 - 77</u>	YES
	Claims	_____	NO
Industrial applicability (IA)	Claims	<u>1 - 77</u>	YES
	Claims	_____	NO

2. Citations and explanations (Rule 70.7)

Document cited in the International Search Report:

D1: Kyritse, P., "MIMO capacity in free space and above perfect ground: theory and experimental results", The 13th IEEE International Symposium on Personal, Indoor and Mobile Radio Communications, 2002. 15-18 Sept 2002, Vol. 1, pp 182-186, INSPEC AN 7690963

The cited document represents the general state of the art.

The invention defined in claims 1-77 is not disclosed by this document.

The cited prior art does not give any indication that would lead a person skilled in the art to the claimed antenna configuration and method therefor. Therefore, the claimed invention is not obvious to a person skilled in the art.

Accordingly, the invention defined in claims 1-77 is novel and is considered to involve an inventive step. The invention is industrially applicable.

See further box VIII for interpretation of the claims.

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Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

It is understood from the description that the invention concerns an antenna configuration for LOS MIMO links. The independent claims 1, 11, 34 and 49 are not restricted to this environment. Search and examination have however been restricted to this interpretation.